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WALMART, INC.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

PATRICIA LEVY, an individual,

Plaintiff,

v.

WALMART, INC., a foreign corporation
doing business in the State of Nevada;
JOHN DOES I through X, inclusive; ABC
CORPORATIONS I through X, inclusive; and
BLACK AND WHITE COMPANIES I
through X, inclusive,

Defendants.

CASE NO.: 22-cv-01422

PETITION FOR REMOVAL

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

Defendant WAL-MART, INC. (hereafter “Defendant” or “Walmart”) by and through its
counsel of record, Troy A. Clark, Esq. and Fredrick J. Biedermann, Esq. of the law firm of
RESNICK & LOUIS, P.C., hereby remove this action to the United States District Court for the
District of Nevada.

The basis for the removal is as follows:

1 1. Plaintiff Patricia Levy filed her Complaint in the Second Judicial District Court
2 for the State Nevada, County of Washoe on July 12, 2022. Case No. CV22-01098. (**Exhibit “1”**).

3 2. Plaintiff’s Complaint alleged damages for “past and future medical and incidental
4 expenses” and “past and future general damages in a sum in excess of \$15,000.00”.

5 3. On August 23, 2022, Walmart filed its Answer to Plaintiff’s Complaint. (**Exhibit**
6 **“2”**).

7 4. On August 24, 2022, Plaintiff filed her Request for Exemption from Arbitration
8 wherein she alleged \$72,898.24 in past and future medical specials. (“Request for Exemption”)
9 (**Exhibit “4”**).

10 5. This Court has original jurisdiction over the subject matter of this action under the
11 provisions of 28 U.S.C. § 1332 in that there is complete diversity between the parties and more
12 than \$75,000.00 in controversy, exclusive of interests and costs.

13 6. Plaintiff alleges in her Complaint that she is a resident of Washoe County, Nevada.
14 (**Exhibit “1”**, pg. 1:22-23).

15 7. Defendant Walmart is incorporated in the State of Delaware. Its principal place of
16 business is Benton County, State of Arkansas.

17 8. Plaintiff has alleged \$72,898.24 in medical specials in her Request for Exemption.
18 *See Exhibit “4”*. Plaintiff further alleged in her Complaint general damages in excess of
19 \$15,000.00. *See Exhibit “1”*. Thus, the amount in controversy is at least \$87,898.24, exceeding
20 the \$75,000.00 threshold requirement for removal.

21 9. The Petition of Removal is timely. “[A] proper removal notice must be filed within
22 **30 days of service** of the plaintiff’s complaint.” 28 U.S.C. § 1446(b); *Parrino v. FHP, Inc.*, 146
23 F.3d 699, 703 (9th Cir. 1998). (Emphasis Added).

24 10. Plaintiff filed her Complaint on July 12, 2022, which alleged general damages in
25 excess of \$15,000.00 but made no specific allegations to her “past and future medical and
26 incidental expenses”. After being served with the Complaint, Walmart first became aware that the
27 amount in controversy exceeded \$75,000.00. The Request for Exemption containing the alleged
28 \$72,898.24 in past and future medical specials constitutes the “first paper” from which Defendant

1 could reasonably ascertain that this matter is *prima facie* removable, under 28 U.S.C. § 1446(b)(3).
2 Accordingly, there can be no dispute that Walmart timely filed the instant notice of removal (i.e.,
3 within the 30-day period prescribed by 28 U.S.C. § 1446(b)(1), and less than one year after the
4 action was initiated, as required by 28 U.S.C. § 1446(c)(1)).

5 11. Copies of all pleadings and papers filed in the District Court, County of Washoe,
6 State of Nevada action are attached hereto as **Exhibits “1” through “6”**.

7 12. Defendant has concurrently filed a copy of this Notice of Removal with the Washoe
8 County District Court Clerk and have served a copy of this document upon Plaintiff’s counsel.

9 Based upon the foregoing, Defendant Walmart hereby removes the above action now
10 pending in the Second Judicial District, Washoe County, Nevada, Case No. CV22-01098, to this
11 Court.

12 DATED this 31st day of August, 2022.

13 **RESNICK & LOUIS, P.C.**

14 By: /s/ Troy A. Clark, Esq.
15 Troy A. Clark, Esq.
16 Nevada Bar No. 11361
17 Fredrick J. Biedermann, Esq.
18 Nevada Bar No. 11918
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Attorneys for Defendant, WALMART, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the foregoing **PETITION FOR REMOVAL** was served this 31st day of August, 2022, by:

☒ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada, addressed as set forth below.

☐ **BY FACSIMILE:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document.

☐ **BY PERSONAL SERVICE:** by causing personal delivery by an employee of Resnick & Louis, P.C. of the document(s) listed above to the person(s) at the address(es) set forth below.

☒ **BY ELECTRONIC SERVICE:** by transmitting via the Court's electronic filing services the document(s) listed above to the Counsel set forth on the service list on this date pursuant to EDCR Rule 7.26(c)(4).

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/s/ Shyanne Jackson
An Employee of Resnick & Louis, P.C.